

BILL ANALYSIS

Senate Research Center
80R11677 GWK-D

H.B. 681
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Criminal Justice
5/7/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law is ambiguous regarding a judge's authority to order additional forensic testing, which has made some judges reluctant to order testing. In addition, the Department of Public Safety (DPS) currently has a backlog of orders for forensic DNA testing.

In January 2006, the Governor's Criminal Justice Advisory Council (council) issued recommendations for improving the criminal justice system to address these issues.

H.B. 681 implements the council's recommendations regarding post-conviction forensic testing by explicitly authorizing judges to order post-conviction forensic testing and specifying who will pay for forensic tests. The bill also expands the circumstances under which a non-DPS laboratory may conduct forensic DNA testing.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3, Article 11.07, Code of Criminal Procedure, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Authorizes the convicting court to order additional forensic testing if the court decides there are controverted, previously unresolved facts which are material to the legality of the applicant's confinement. Requires the state to pay the cost of additional forensic testing ordered under this subsection, except that the applicant is required to pay the cost of the testing if the applicant retains counsel for purposes of filing an application under this article (Procedure After Conviction Without Death Penalty).

(e) Defines "additional forensic testing."

SECTION 2. Amends Articles 64.03(c) and (d), Code of Criminal Procedure, as follows:

(c) Authorizes the court to order the test to be conducted by the Department of Public Safety (DPS), by a laboratory operating under a contract with DPS, or, on agreement of the parties or for good cause shown, by another laboratory.

(d) Provides that the State of Texas is not liable for the cost of testing unless good cause for payment of that cost has been shown if the convicting court orders that the forensic DNA testing be conducted by a laboratory other than DPS laboratory or a laboratory under contract with DPS.

SECTION 3. (a) Makes application of Section 3(d), Article 11.07, Code of Criminal Procedure, as amended by this Act, prospective.

(b) Makes application of Article 64.03, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2007.